

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|--------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | 4:13CR3010 & |
| |) | 4:15CR3091-1 |
| v. |) | |
| |) | |
| ALLEN E. PEITHMAN JR., |) | MEMORANDUM |
| |) | AND ORDER |
| Defendant. |) | |
| _____ |) | |

Upon consideration of the briefs of the parties in response to the Court's Memorandum and Order (filing no. [293](#) in 4:15CR3091),

IT IS ORDERED that:

1. The conviction of Mr. Peithman regarding Count 14 in case 4:15CR3091 is vacated.
2. Regarding case 4:13CR3010, Mr. Peithman shall show good and sufficient cause on or before May 8, 2017, why Mr. Peithman should not be found to have violated his conditions of supervised release as proven beyond a reasonable doubt to a jury by the remaining convictions of Mr. Peithman in 4:15CR3091.¹

¹To be specific, no hearing would be held to determine whether Peithman violated his conditions of supervision because the Court takes judicial notice of the proceedings in 4:15CR3091. If defense counsel believes otherwise, counsel should submit a motion for a separate hearing in 4:13CR3010 with a supporting brief detailing why such a separate hearing is necessary.

3. Failing such cause being shown in 4:13CR3010, it would be the intention of the undersigned to sentence Mr. Peithman on the supervised release violation at the same date and time set for sentencing in 4:15CR3091 (presently June 20, 2017).
4. My chambers shall provide the U.S. Probation Officer preparing the presentence report in 4:15CR3091 (Mr. Nelson) with a copy of this Memorandum and Order.
5. My chambers shall provide the U.S. Probation Officer supervising Mr. Peithman in 4:13CR3010 (Ms. Gallagher) with a copy of this Memorandum and Order.

DATED this 24th day of April, 2017.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge